

FEE
\$0
\$8
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\$1
\$15

When recorded return to:
 City Clerk
 City of Cottonwood
 827 North Main Street
 Cottonwood, AZ 86362

Ana Wayman-Trujillo, Recorder
 OFFICIAL RECORDS OF YAVAPAI COUNTY
 YAVAPAI TITLE AGENCY INC L

B-4680 P-978
 07/13/2009 02:48P
 15.00 4327638



B-4680 P-978
 Page: 1 of 6
 L 4327638

CONSENT OF CITY OF COTTONWOOD TO
 ASSIGNMENT OF TENANT RIGHTS IN
 LOT #111 REPLAT OF COTTONWOOD AIRPARK TRACT ONE
 PARTS A&B

Once fully executed, this Consent is legally binding as of 7-2
 2009 (the "Effective Date").

BACKGROUND

The Ground Lease

- A. The City of Cottonwood, formerly known as the Town of Cottonwood, an Arizona municipality, is the "Landlord" under a Ground Lease Agreement dated May 5, 1983 which seeks to serve the public interest by providing opportunities for industrial development, and by promoting economic development and the creation of new employment opportunities.
- B. Cottonwood Airpark L.C. ("CALC") is the successor in interest to Cottonwood Airpark I, L.C. as successor in interest to Cottonwood Airpark, Inc., which was originally named as "Tenant" under the Ground Lease Agreement.
- C. The Ground Lease Agreement was amended by the First Amendment dated November 30, 1983; the Second Amendment dated March 12, 1985; the Third Amendment dated August 21, 1985; the Fourth Amendment dated February 7, 1989; and the proposed Fifth Amendment dated January 1, 1993 which was never signed; the Sixth Amendment dated July 5, 1994; the Seventh Amendment dated September 16, 1997; the Eighth Amendment which was recorded December 22, 1998 in Book 3626, Page 140; the Ninth Amendment recorded October 1, 2001, in Book 3867, Page 214; and the Tenth Amendment recorded March 3, 2003, in Book 4011, Page 367. The Ground Lease Agreement and all Amendments are collectively referred to as the "Ground Lease."
- D. A memorandum of the Ground Lease dated May 23, 1983, was recorded January 4, 1984, in Book 1597, pages 576-581 and thereafter corrected by an instrument recorded July 1, 1985 in Book 1734, pages 11-15 of the records of the Yavapai County Recorder (the "Memorandum of Ground Lease").
- E. On March 17, 2003, CALC made an assignment to Backus Family Investments, L.L.C., an Arizona limited liability company the rights possessed by CALC under its Ground Lease with the City of Cottonwood, i.e., to the South 1/2 of Lot 108



B-4680 P-978
Page: 2 of 6
L 4327638

and Lots 109 through 118 (collectively, the "Lots"). Recorded March 17, 2003, in Book 4011 of Official Records, page 368.

- F. On October 27, 2003 the City of Cottonwood recorded the Replat of Cottonwood Airpark Tract One – Parts A&B in Book 48 Page 90 of the Official Records of Yavapai County.
- G. Backus Family Investments L.L.C. ("BFI") now wishes an assignment to Willow Bee L.L.C. an Arizona limited liability company, (ASSIGNEE) the rights possessed by BFI under its Ground Lease with the City of Cottonwood i.e., Lot #111 REPLAT OF COTTONWOOD AIRPARK TRACT ONE – PARTS A & B (the "Lot").
- H. The Ground Lease requires the written consent of the City of Cottonwood to the assignment by BFI of its rights as Tenant under the Ground Lease to ASSIGNEE. The City of Cottonwood has indicated that it will grant its consent to this transaction by execution and delivery of this Consent, in consideration for and subject to the covenants and conditions recited below.

AGREEMENT

Now, therefore, for valuable consideration received, The City of Cottonwood agrees that:

1. Consent. The City of Cottonwood hereby consents to the Assignment by BFI to ASSIGNEE of its rights to the Lot under the Ground Lease. Such consent to be effective upon execution of this instrument by ASSIGNEE.
2. Acceptance of Assignment and Promise to Perform. By his signature below, ASSIGNEE hereby accepts, reaffirms and agrees to faithfully perform all of BFI's duties, obligations and undertakings with respect to the Lot.
3. Release. In exchange for ASSIGNEE's faithful performance hereunder, and as of Effective Date of this Agreement, the City as Landlord under the Ground Lease, hereby:
 - 3.1 Certifies that formal approval of the Assignment to ASSIGNEE is hereby granted by the City;
 - 3.2 Acknowledges and agrees that BFI has assigned its rights, duties and obligations to the Lot to ASSIGNEE; all as set forth in the "Assignment." Landlord agrees to look solely to ASSIGNEE for collection of all rents and other amounts arising from the Ground Lease for the Lot after the Effective Date of this Consent and releases BFI (and its predecessors) as Tenant from all obligations or duties arising under the Ground Lease relative to the Lot.



B-4680 P-978
Page: 3 of 6
L 4327638

- 3.3 Acknowledges receipt of all rent and other amounts owned by Tenant to Landlord under the Ground Lease with respect to the Lot as of the Effective Date;
- 3.4 Ratifies, affirms and confirms the validity of all other terms and conditions of the Ground Lease;
- 3.5 Confirms that, to Landlord's knowledge, there are no uncured defaults or breaches by Tenant under the Ground Lease;
- 3.6 Agrees that the "Rent" for the Lot, which total 1.28 acres, or 55,613 square fee, is \$0.01 per square foot of area within the Improved Lot per year, as set forth in Sections 4B.2&3 of the Ground Lease Agreement dated May 5, 1983 per year with the next payment due on January 1, 2010;
- 3.7 Agrees that the property taxes for the Lots shall be separately assessed and paid by ASSIGNEE;
- 3.8 Agrees that the failure of ASSIGNEE to pay rent, to pay property taxes, or to otherwise fully comply with the terms of the Ground Lease shall be considered a default by ASSIGNEE only as to the Lot and shall not be considered a default by Tenant under the Ground Lease affecting any of the other rights of BFI or affecting any other right of BFI or affecting any other property leased by BFI;
- 3.9 Agrees that in the event of a default by BFI under the Ground Lease, Landlord will exercise its rights solely against BFI and will not construe a default by BFI as a default by ASSIGNEE so long as ASSIGNEE pays its rent and timely performs all other obligations as required under the Ground Lease, with respect to the Lot, any default by BFI regarding its other obligations under the Ground Lease shall not be construed as a default by ASSIGNEE;
- 3.10 Acknowledges that ASSIGNEE intends to encumber its leasehold interest in the Lot to construct certain improvements which may be subject to an encumbrance in favor of a Lender. Landlord agrees to provide notice to the Lender and to BFI in the event of a default by ASSIGNEE under the Ground Lease pertaining to the Lot if requested by such Lender, and will execute a separate instrument to that effect if asked to do so;
- 3.11 Acknowledges that it shall look solely to ASSIGNEE for compliance with the insurance requirements of the Landlord under the Ground Lease with respect to the Lot;
- 3.12 Acknowledges that pursuant to Section 20 of the Ground Lease the address for the tenant under the Lot is: 403 S. 6TH ST.
COTTONWOOD, AZ 86326

Page: 4 of 6
4327638

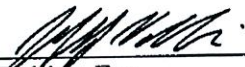
- 3.13 Name of Assignee: Willow Bee L.L.C. Address of Assignee:
403 S. 6TH ST. COTTONWOOD, AZ 86326
- 3.14 Affirms that the Term of the Lease to the Lot runs until December 31, 2033.

4. Ratification of Ground Lease with Respect to the Lot. The terms and conditions contained in the Ground Lease with respect to the Lot are hereby ratified, confirmed and continue in full force and effect. The Term Commencement date of December 1983 began a 25-year term as to certain portions of the Lease and a 50-year Term as to certain other portions. The Lease also granted options for renewal. The parties intend to ratify and affirm the length of the term and of all other rights and obligations under the Ground Lease with respect to the Lot. The parties represent that to the best of their knowledge and belief, there are no other amendments, modifications, supplements or other agreements or understandings with respect to the subject matter of this Consent (i.e., the Lot) except for those identified herein. The City as Landlord further acknowledges (i) that BFI as Tenant has paid all rent due with respect to the Lot, and (ii) that, to the City's knowledge, BFI has fully performed all of its obligations and is in good standing under the Ground Lease with respect to the Lot.
5. Further Documentation. The City agrees in good faith to execute such further or additional documents as become necessary or appropriate to carry out the intent and purpose of this Consent.
6. Counterparts and Facsimiles. This Consent may be executed by facsimile or in any number of counterparts, each of which shall be an original but all of which together shall constitute one and the same instrument.

This Consent is legally binding as of the Effective Date regardless of the actual date of signing, provided that it shall not take effect until it is fully executed by both the City and ASSIGNEE.

The undersigned Representatives of the City of Cottonwood hereby personally affirm and certify that there has been full compliance with all requirements for approval of the Assignment by the City and do further affirm and certify that this Consent is hereby approved, ratified and accepted by the City of Cottonwood.

Approved as to Form Only



Jeff Dollins, Esq.
Mangum, Wall, Stoops & Warden, P.L.L.C.
City Attorneys



B-4680 P-978
Page: 5 of 6
L 4327638

The undersigned ASSIGNEE hereby personally affirms and accepts the duties of ASSIGNEE as outlined above.

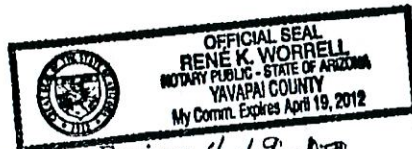
NAME OF ASSIGNEE: Willow Bee L.L.C., an Arizona Limited Liability Company

By: Mary Ann Willoughby
Mary Ann Willoughby (Member)

Date: July 8-2009

[illegible]

On this the 8th of July, 2009, before me, the undersigned Notary Public, personally appeared Mary Ann Willoughby, who are personally known to me or satisfactorily proved himself/herself to be the person who executed the foregoing Consent, acknowledging that he/she executed the same for the purposes therein contained, being authorized so to do.



My Commission Expires: 4-19-02

Sen. K. K. K.
Notary Public



B-4680 P-978
Page: 6 of 6
L 4327638

THE CITY OF COTTONWOOD

By: Karen Pfeifer
Karen Pfeifer, Vice Mayor

Date: 7-2-09

ATTEST:

Marianne Jiménez
Marianne Jiménez, City Clerk

Date: 7-2-09